

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA, - Docket No. 3:12-cr-495
-
Plaintiff, - Toledo, Ohio
- April 16, 2013
v. - Sentencing
-
RANDOLPH LINN, -
-
Defendant. -

TRANSCRIPT OF SENTENCING HEARING
BEFORE THE HONORABLE JACK ZOUHARY
UNITED STATES DISTRICT JUDGE.

APPEARANCES:

For the Plaintiffs: United States Attorneys' Office
By: Ava Rotell Dustin
Four SeaGate, Suite 308
Toledo, OH 43604
(419) 259-6376

United States Attorney's Office
By: Bridget M. Brennan
Suite 400
801 Superior Avenue, W
Cleveland, OH 44113
(216) 622-3810

Gwen Howe-Gebers

For the Defendant: John B. Thebes
Suite 1000
405 Madison Avenue
Toledo, OH 43604
(419) 242-1400

Court Reporter: Tracy L. McGurk, RMR, CRR
1716 Spielbusch Avenue
Toledo, Ohio 43604
(419) 213-5520

Proceedings recorded by mechanical stenography,
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1 (Commenced at 3:07 p.m.)

2 THE COURT: Good afternoon. We're here on
00:00:01 3 case number 12-CR-495, United States versus Randolph
00:00:08 4 Linn. Mr. Linn is present in court along with his
00:00:12 5 counsel, John Thebes. On behalf of the Government we
00:00:15 6 have AUSA Ava Dustin, Bridget Brennan, and Gwen
00:00:19 7 Howe-Gebers. We also have present from
00:00:22 8 Pretrial/Probation Myrna Greenwood. I also want to
00:00:26 9 acknowledge a couple interns with our Pretrial Probation
00:00:29 10 office: Samantha Holly and Renee Patty.

00:00:33 11 This matter is here for a sentencing. By
00:00:35 12 way of background, the Defendant was charged in three
00:00:40 13 counts; the first being a violation of federal statute
00:00:44 14 for damage to religious property; the second for
00:00:47 15 violation of another federal statute for use of fire or
00:00:50 16 explosives in connection with the commission of a
00:00:53 17 federal felony; and the third count, a violation of yet
00:00:58 18 a third statute, use of a firearm with crime of
00:01:01 19 violence.

00:01:04 20 With respect to those charges, let me
00:01:13 21 indicate that there was a binding Plea Agreement that
00:01:20 22 took place, and the Defendant pled and this Court
00:01:23 23 accepted at an earlier hearing that binding Plea
00:01:27 24 Agreement. And by statute Defendant faces for Count 1
00:01:32 25 up to 20 years in prison; for Count 2 a ten-year

00:01:36 1 mandatory; and Count 3, a five-year mandatory minimum;
00:01:43 2 that is, for Count 2 a ten-year mandatory minimum; Count
00:01:47 3 3 a five-year mandatory minimum.

00:01:50 4 Also supervised release for each of those
00:01:52 5 counts is up to three years.

00:01:54 6 The guideline range in this case, I will
00:01:56 7 confirm with counsel, the guideline range reflects a
00:01:59 8 total offense level of 24, a Criminal History Category
00:02:02 9 I. And the guideline range for Count 1 is 51 to 63
00:02:07 10 month; for Count 2 is 120 months, again, mandatory
00:02:12 11 minimum; Count 3, 60 months, a mandatory minimum. These
00:02:18 12 mandatory minimums are by statute.

00:02:20 13 Counsel, please confirm with me -- we'll
00:02:22 14 start with the Government -- that you have reviewed the
00:02:25 15 Presentence Report, that my summary of the potential
00:02:28 16 penalties both by statute and guideline range is
00:02:31 17 accurate.

00:02:32 18 MS. HOWE-GEBERS: Your Honor, we have read
00:02:34 19 the report. In reviewing the report, Count 3 is up to
00:02:37 20 five years; I believe Counts 1 and 2 are three years.

00:02:43 21 THE COURT: You're talking about supervised
00:02:47 22 release?

00:02:47 23 MS. HOWE-GEBERS: Supervised release, yes,
00:02:49 24 Your Honor.

00:02:49 25 THE COURT: You're right. It is an error in

00:02:51 1 the report in one place and correct elsewhere. Let the
00:02:55 2 record reflect that Count 3 is up to five years of
00:02:58 3 supervised release. And to make sure we're clear, Count
00:03:09 4 2, three years?

00:03:10 5 MS. HOWE-GEBERS: Yes, Your Honor.

00:03:11 6 THE COURT: And Count 1, up to three years
00:03:14 7 supervised release?

00:03:14 8 MS. HOWE-GEBERS: That is correct, Your
00:03:16 9 Honor.

00:03:16 10 Other than that, we do agree with the
00:03:18 11 Presentence Report.

00:03:18 12 THE COURT: With that correction let me turn
00:03:20 13 to defense counsel.

00:03:21 14 MR. THEBES: Judge, there's no objection to
00:03:23 15 making that correction.

00:03:24 16 I have reviewed the Presentence Report with
00:03:27 17 Mr. Linn, find it to be accurate in all respects, Judge.
00:03:31 18 We're prepared for sentencing today.

00:03:33 19 THE COURT: Thank you.

00:03:34 20 Mr. Linn, let me confirm with you that
00:03:35 21 you've had an opportunity to review this presentence
00:03:38 22 report that I've referenced and talked to your lawyer
00:03:40 23 about it; is that correct?

00:03:43 24 THE DEFENDANT: Uh-huh. Yeah.

00:03:43 25 THE COURT: That's a yes?

00:03:45 1 THE DEFENDANT: Yes.

00:03:45 2 THE COURT: Very good. The Presentence
00:03:46 3 Report then will be made part of the record in this case
00:03:49 4 under seal and available as necessary.

00:03:51 5 Having confirmed the guideline range and the
00:03:54 6 statutory potential penalties in this case; having
00:03:58 7 received the concurrence of counsel with my
00:04:01 8 calculations; I have not received any sentencing memos,
00:04:08 9 not unusual given the binding Plea Agreement in this
00:04:10 10 case; I have no letters or other documents from either
00:04:13 11 side; unless there are additional documents, I'm
00:04:16 12 prepared to turn the floor over to what I understand
00:04:18 13 will be some comments from a representative of the
00:04:21 14 mosque, Cherrefe Kadri. Is that right?

00:04:26 15 MS. KADRI: Yes, Your Honor.

00:04:26 16 THE COURT: Cherrefe, do you want to come
00:04:29 17 forward. You can use the microphone in the middle or --
00:04:33 18 yeah, right up there. If you want the lectern, you can
00:04:39 19 turn it around and utilize it if you wish.

00:04:45 20 MS. KADRI: Thank you, Your Honor. I'm here
00:04:51 21 as a representative of the Islamic Center of Toledo as
00:04:55 22 President of the Center this year.

00:05:01 23 Mr. Linn, as I pondered what to say to you
00:05:06 24 today on behalf of the members of the Islamic Center of
00:05:08 25 Greater Toledo, I analyzed the fallout of that one act

00:05:12 1 of hatred on September 30, 2012, and I was struck by the
00:05:17 2 fact that we've lost a lot, but you've lost much more.
00:05:21 3 And I honestly felt sorry for you. Much of our loss was
00:05:27 4 material, but it was also psychological. Our school
00:05:29 5 children had to relocate to a college setting. Our
00:05:32 6 Sunday school program was held at Perrysburg High
00:05:35 7 School. And we were in three different locations for
00:05:38 8 our Friday prayers. We have felt disjointed and afloat
00:05:44 9 for the last six months.

00:05:46 10 Your decision to set fire to our mosque in
00:05:49 11 an attempt to get even with Muslims has resulted in the
00:05:53 12 opposite reaction. We're very fortunate in the Toledo
00:05:58 13 area in that we enjoy a healthy and vibrant interfaith
00:06:02 14 community. Church groups visit temples; Muslims
00:06:06 15 participate in Christian programs; and Jews invite
00:06:09 16 everyone to share seder. So when you injured us, you
00:06:13 17 injured the entire greater Toledo community.
00:06:18 18 Non-Muslims have said to me: Why would someone want to
00:06:22 19 damage our mosque? They consider this Center theirs.
00:06:26 20 That's the connection we have with each other. We are
00:06:30 21 friends and neighbors, not "us" and "them."

00:06:34 22 Someone suggested that the Center make a
00:06:36 23 statement that we forgive you for your actions.
00:06:39 24 However, forgiveness is to be sought from God, and the
00:06:43 25 granting of forgiveness is in his jurisdiction alone.

00:06:47 1 God and the holy Quran said that we may avenge an eye
00:06:51 2 for an eye and a tooth for a tooth, but if you do not
00:06:54 3 seek vengeance, you're a better person for it and will
00:06:58 4 be blessed and rewarded. Vengeance breeds anger and
00:07:03 5 hatred; and that's what brought us together,
00:07:05 6 unfortunately. We choose to break that cycle of hatred
00:07:09 7 and let justice take its course. We don't feel anger
00:07:12 8 as much as we feel hurt that someone hated us that much,
00:07:15 9 someone who has never met us, someone who knows nothing
00:07:19 10 about us.

00:07:21 11 So let me tell you just a little about this
00:07:23 12 community that you've targeted. We are Americans, and
00:07:28 13 our community has been in Toledo for over 60 years.
00:07:32 14 There are several families who are fourth generation
00:07:34 15 Americans. We are veterans of the U.S. military. I
00:07:38 16 have a brother and two nephews who have served this
00:07:40 17 country. And my family is representative of our
00:07:43 18 community, of other families in our community. We're a
00:07:46 19 hospitable group, and we open our doors to all who
00:07:49 20 enter. We are engaged in our community and the
00:07:52 21 interfaith community. We host and participate in those
00:07:56 22 dialogues. We host health fairs and Red Cross blood
00:08:00 23 drives. We donate about 18,000 pounds of food every
00:08:03 24 year to local food banks to distribute to anyone who's
00:08:08 25 in need. At Thanksgiving we donate hundreds of turkeys

00:08:12 1 we put in baskets so all families can enjoy a meal. We
00:08:15 2 helped clean up when the tornado struck Lake Township.
00:08:20 3 We build Habitat for Humanity houses. And we were
00:08:23 4 supposed to host the Silent Witness Project at our
00:08:27 5 Center on October 8, but we couldn't do it because of
00:08:29 6 the fire. That group stands against and honors the
00:08:34 7 victims of domestic violence who, as we all know, come
00:08:37 8 in all colors, creeds, and social status. They had to
00:08:41 9 make last-minute plans to relocate that event.

00:08:44 10 Hopefully we can host it this year at our Center.

00:08:48 11 I attended a lecture at the University of
00:08:51 12 Toledo several weeks ago that was being given by the
00:08:53 13 professor of Islamic studies. And during the question
00:08:56 14 and answer portion of the evening, a young man stated
00:08:59 15 that as of a year ago he knew nothing about Islam, nor
00:09:03 16 did he know any Muslims. I think that was your
00:09:06 17 statement at your plea hearing. He went on to say that
00:09:12 18 he attended the international festival on the grounds of
00:09:16 19 our Center last fall and sampled the many varieties of
00:09:19 20 food that we have there. He then went into the Center
00:09:21 21 and took a tour and learned a little about Islam. That
00:09:25 22 experience, he said, caused him to patronize some of the
00:09:28 23 ethnic restaurants in town and some of the shops which
00:09:31 24 caused him to meet new people who were different than
00:09:35 25 himself, and he considered that a positive in his life.

00:09:38 1 I wish you would have come and eaten some food with us.
00:09:41 2 Maybe we could have been friends.

00:09:44 3 Mr. Linn, I was one of the last persons in
00:09:46 4 the Center on September 30th. I was there with four
00:09:49 5 other women who left just mere minutes before you
00:09:52 6 entered. It was a creepy feeling watching the video of
00:09:56 7 you walking the halls of the Center, and it was
00:09:59 8 frightening to think you could have come upon us toting
00:10:02 9 your gun. I'd like to think that you would not have
00:10:05 10 used it. But in order to process the what-ifs of such a
00:10:09 11 situation, I suppose, I joke that it was a good thing
00:10:15 12 for you that you didn't run into these particular five
00:10:18 13 ladies because you might have needed the first
00:10:21 14 responders. That was a very scary, scary thing to see
00:10:26 15 and to think about.

00:10:29 16 While in prison I hope that you are able to
00:10:31 17 reconcile your anger and your actions and come out of
00:10:34 18 this a better person. I can't imagine that your
00:10:38 19 expression of anger was worth losing your liberty for so
00:10:41 20 many years, that it was worth the legacy you're leaving
00:10:44 21 for your family. I honestly pray for you to find inner
00:10:48 22 peace and solace because it seems perhaps that these
00:10:52 23 were missing in your heart.

00:10:55 24 Thank you, Your Honor.

00:10:58 25 THE COURT: Thank you. We'll now turn to

00:10:59 1 defense counsel. Any comments from defense counsel?

00:11:06 2 And then we'll go back to the Government.

00:11:09 3 MR. THEBES: Judge, very briefly. First,
00:11:11 4 Mr. Linn has signed two documents, one regarding a
00:11:16 5 sentencing order and restitution and other matters; the
00:11:20 6 other involves his acknowledgment of waiver of certain
00:11:24 7 appellate rights which he has signed. I've gone over
00:11:27 8 each document with him. As a matter of fact, I even
00:11:30 9 read word for word the waiver document to him.

00:11:36 10 THE COURT: We'll take care of that next
00:11:37 11 then. Let me confirm with you, Mr. Linn, that you have
00:11:40 12 reviewed prior to this hearing with your lawyer these
00:11:42 13 two documents, one captioned Sentencing Order Regarding
00:11:45 14 Restitution and Conditions of Supervised Release. Did
00:11:48 15 you do that?

00:11:50 16 THE DEFENDANT: Yes, sir, I did.

00:11:50 17 THE COURT: And this is your signature along
00:11:52 18 with your lawyer and today's date on that document?

00:11:54 19 THE DEFENDANT: Yes, sir, it is.

00:11:55 20 THE COURT: Do you have any questions of me
00:11:57 21 about the document?

00:11:59 22 THE DEFENDANT: No, sir.

00:11:59 23 THE COURT: Okay. The other document that
00:12:01 24 you reviewed with your lawyer is an acknowledgment of
00:12:06 25 your waiver of certain appeal rights. Your lawyer's

00:12:09 1 indicated he read this to you. Did you understand this
00:12:12 2 document as well?

00:12:15 3 THE DEFENDANT: Yes, I did waive, yes, sir.

00:12:18 4 THE COURT: Yes, you did.

00:12:20 5 This has your signature and your lawyer's
00:12:23 6 signature with today's date as well?

00:12:26 7 THE DEFENDANT: Yes, sir.

00:12:26 8 THE COURT: Both of these documents are
00:12:28 9 accepted and will be filed of record in this case.

00:12:30 10 John, any further comments with respect to
00:12:33 11 sentencing now?

00:12:35 12 MR. THEBES: Your Honor, there is, very
00:12:36 13 briefly. As the Court notes, I am the second lawyer
00:12:42 14 that came into this case. And I think the Court knows
00:12:46 15 through prior experience with me in Common Pleas Court,
00:12:51 16 if the case isn't mine, I really don't pay much
00:12:54 17 attention to it other than maybe reading the headlines
00:12:57 18 or seeing a report on the television news. I came into
00:13:02 19 this case, and I was not prepared. I did not understand
00:13:09 20 the depth and breadth of what happened and how it
00:13:13 21 impacted not only the community of the mosque, but
00:13:19 22 everything surrounding it, including our whole community
00:13:23 23 here in Toledo. It struck me when I went to a social
00:13:29 24 gathering not long after our last hearing and somebody
00:13:35 25 was asking me about this case. And I really didn't want

00:13:40 1 to talk about it, but I listened more than I talked, and
00:13:46 2 things began to crystallize, at least in my mind, but
00:13:51 3 mostly in my heart.

00:13:52 4 What happened, the acts perpetrated by
00:13:57 5 Randy, are indefensible, and I'm not going to defend the
00:14:00 6 indefensible here today. But what I began to do was to
00:14:06 7 think of this case in terms of my own life. What if
00:14:12 8 this had happened to the church where my wife and I and
00:14:16 9 my family go to every Sunday in a sleepy suburb here in
00:14:22 10 metro Toledo? What if my three children couldn't go to
00:14:26 11 the school in which the church is connected? And I
00:14:32 12 began to think of this case in a whole new light in
00:14:35 13 terms of how it would impact me, my parish, et cetera.
00:14:47 14 I say it in this context, Judge: I would be and would
00:14:52 15 have been extremely upset and probably experience the
00:14:57 16 certain stages from denial all the way to acceptance as
00:15:02 17 to what had happened. I would end up, however, at a
00:15:08 18 point where I think most of my parish would end up,
00:15:15 19 whether it be the pastor telling me, a bishop, a
00:15:19 20 cardinal, or someone in Rome, they would ultimately tell
00:15:26 21 me in my heart and my mind to forgive.

00:15:29 22 Randy hopefully today will ask you folks for
00:15:34 23 your forgiveness. He has expressed that to me on more
00:15:40 24 than one occasion, and hopefully he will do that today.
00:15:44 25 What a better world it would be if we just forgave.

00:15:50 1 That's my comment. I certainly appreciate, however, the
00:15:56 2 harm that has been done, but what a better world it
00:16:02 3 would be if there were more forgiveness. Thank you,
00:16:05 4 Judge.

00:16:07 5 THE COURT: Randy, is there something you
00:16:09 6 wish the Court to know, anything you want to add to what
00:16:12 7 your lawyer has just said?

00:16:14 8 THE DEFENDANT: Yes. I want to agree with
00:16:17 9 the woman who was up there, with everything she said.
00:16:21 10 That day, September 30th, that wasn't -- it was me that
00:16:25 11 did it, but that's not the me that I normally am. I was
00:16:31 12 drinking a lot. My wife, ex-wife, told me I don't know
00:16:38 13 how many times, watch my drinking, you're drinking too
00:16:42 14 much. I didn't listen to her. I lost her; I lost my
00:16:46 15 son. My wife, ex-wife, the one who actually turned me
00:16:52 16 in, her and her friend, and my wife, she's getting
00:16:55 17 kicked out of the house because she can't afford the
00:16:57 18 payments by herself. So I messed up her life, messed up
00:17:05 19 my own life. Thank God I didn't hurt anybody at the
00:17:10 20 mosque. I don't think I would have, but the state of
00:17:16 21 mind I was in, I don't know. I hopefully wouldn't have.
00:17:20 22 I don't know. And I'm sorry for everything I've done.
00:17:26 23 I hope some day I can be forgiven.

00:17:29 24 Thank you, Judge.

00:17:32 25 THE COURT: Let's hear from the Government.

00:17:34 1 MS. HOWE-GEBERS: Thank you, Your Honor.

00:17:36 2 Your Honor, I just wanted to touch on a couple things

00:17:39 3 that I believe are contained in the report and what

00:17:43 4 Cherrefe has indicated. Again, I think I share the same

00:17:46 5 as what Mr. Thebes: Unless you become part of the case,

00:17:51 6 you don't understand truly the significance of,

00:17:55 7 quote-unquote, an arson fire. And it was more than just

00:17:59 8 an arson; it caused severe psychological harm to those

00:18:06 9 of that community, of the Islamic community, the

00:18:10 10 children. I watched on the news the reopening of the

00:18:13 11 school recently on March 15, and to see the children

00:18:18 12 smile about being so excited and being in their own

00:18:22 13 classrooms again; they were deprived of that for six

00:18:25 14 months, wondering whether or not something bad was going

00:18:29 15 to happen to them again if they attended the same

00:18:32 16 school. And that is still a concern of those in the

00:18:35 17 community and trying to get their enrollment back up.

00:18:39 18 In the report it's referred to Islam phobia

00:18:44 19 because, again, as the Defendant indicated at the plea,

00:18:49 20 he sits and watches TV without really taking that extra

00:18:53 21 step to examine their beliefs, their religion, and their

00:18:58 22 community itself. They watch the news, make the

00:19:01 23 assumptions, and jump to unjust conclusions. If more

00:19:06 24 individuals and the Defendant particularly would take

00:19:10 25 the time to understand the community as a whole, just

00:19:13 1 like Cherrefe stated about all of the things that they
00:19:18 2 are involved in, it's just not what we see on the news,
00:19:22 3 and that just because there are individuals who may hold
00:19:27 4 different religious beliefs or feelings or customs does
00:19:30 5 not necessarily make them a bad person or a bad group.
00:19:35 6 And that's what happened in this case with the
00:19:37 7 Defendant. If individuals or the community others as a
00:19:42 8 whole would take the time to understand individuals of
00:19:48 9 different beliefs in the Islamic community.

00:19:52 10 I understand that the Defendant states here
00:19:54 11 today that he is sorry; however, in rereading the plea
00:19:59 12 hearing and even listening to his statements today, it
00:20:02 13 is difficult to believe today that he is truly sorry for
00:20:05 14 his actions. The Government believes he is more sorry
00:20:09 15 for getting caught and ruining his life.

00:20:14 16 There has to be -- the sentencing and part
00:20:17 17 of the discussion of the Government in arriving at this
00:20:21 18 sentence was that it has to send a message to others in
00:20:25 19 the community that this type of activity cannot and will
00:20:29 20 not be tolerated. So there has to be a message to those
00:20:33 21 watching that if you are thinking about, have any
00:20:37 22 thoughts of, this is what will occur if you do that.

00:20:42 23 And so based upon all of that, Your Honor,
00:20:44 24 in reading the -- the restitution, the Government is
00:20:48 25 asking for the \$1.4 million; for the \$1,000 deductible

00:20:56 1 for the Islamic Center; the special assessment of \$300;
00:21:00 2 and that the 20-year sentence is sufficient but not
00:21:04 3 greater than necessary to comply with the purposes of
00:21:07 4 sentencing; 60 months for Count 1, ten years for Count
00:21:12 5 2, which is mandatory; five-year mandatory on Count 3,
00:21:15 6 and that they all run consecutive along with the five
00:21:19 7 years of -- up to five years of supervised release.
00:21:23 8 Thank you.

00:21:29 9 THE COURT: Randy, my sentence in this case
00:21:31 10 is guided by the U.S. Supreme Court and other court
00:21:35 11 decisions from this circuit. These cases require me to
00:21:38 12 consider the guideline range that applies to your case,
00:21:42 13 and we discussed and confirmed that at the outset. I'm
00:21:47 14 also required to make an individualized assessment of
00:21:50 15 you based upon the facts of your case for an appropriate
00:21:54 16 sentence. And to do that, at the time of your guilty
00:21:58 17 plea we talked about a statute, 3553(a). That statute
00:22:02 18 requires that my sentence be sufficient but not greater
00:22:05 19 than necessary, and to arrive at that conclusion to
00:22:09 20 balance the factors from that statute to arrive at a
00:22:13 21 just punishment. Let us look at what those factors are.

00:22:16 22 First, the nature of the crime that brings
00:22:20 23 us together today. That is outlined in the Presentence
00:22:24 24 Report. I will note that the Presentence Report
00:22:27 25 summarizes Counts 1 through 3 in paragraphs 5 through 7.

00:22:33 1 And the Plea Agreement, which we discussed at the time
00:22:35 2 of your guilty plea, is summarized in paragraphs 8
00:22:38 3 through 17. The underlying conduct is set forth in some
00:22:43 4 detail in paragraphs 20 and 21. Let me just summarize
00:22:48 5 that briefly now. The evidence in this case was and you
00:22:54 6 pled guilty to that on September 30, 2012, you left your
00:22:58 7 residence in St. Joe, Indiana driving a red four-door
00:23:03 8 Chevrolet Sonic. Inside the vehicle were numerous
00:23:07 9 firearms and some gas cans, red gas cans. You crossed
00:23:11 10 state lines, entered Ohio, and near Perrysburg stopped
00:23:16 11 at a gas station where you filled the gas cans with
00:23:18 12 gasoline. You then drove to the Islamic Center located
00:23:23 13 on Scheider Road in Perrysburg, made several attempts to
00:23:27 14 enter the building before finally gaining entry through
00:23:30 15 one of the first floor doors. Walked through many
00:23:34 16 rooms of the Center while carrying a handgun in your
00:23:36 17 left hand. After walking through you exited the
00:23:39 18 building and returned with a red gas can, entered a
00:23:41 19 prayer room on the second floor and poured gasoline on
00:23:44 20 the prayer rug, a large patterned rug used by members of
00:23:48 21 the Center during their prayer services, and set fire to
00:23:51 22 the prayer rug.

00:23:53 23 The prayer room, the prayer rug and
00:23:56 24 religious property was damaged through either fire, or
00:24:00 25 smoke, or water, or all three. And the evidence would

00:24:06 1 also show and did show at your guilty plea that a week
00:24:10 2 before you set fire you had told a family member that
00:24:13 3 you wanted to burn down a mosque in Toledo, and you had
00:24:17 4 also made numerous derogatory statements about Muslims.

00:24:22 5 So that is, in short verse, what brings us
00:24:25 6 here today.

00:24:26 7 I'm also required under the statute to look
00:24:29 8 at your character and background, and also to take a
00:24:34 9 look, let me add, about the victim impact. We heard
00:24:37 10 from Cherrefe Kadri from the Center today. We also have
00:24:40 11 a statement in the Presentence Report in paragraphs 22
00:24:47 12 through 32 which discuss the victim impact, some of
00:24:51 13 which we heard from Ms. Kadri today. I will also note
00:24:57 14 you did accept responsibility for this, and that's
00:24:59 15 reflected in Paragraphs 34 through 40 of the Presentence
00:25:04 16 Report.

00:25:05 17 And let me now turn to your character and
00:25:11 18 background. Your personal and family data are
00:25:14 19 summarized in some detail in paragraphs 62 through 72.
00:25:19 20 I have considered all of that. Your mental, physical,
00:25:24 21 and emotional health is also summarized in paragraphs 73
00:25:28 22 through 82. Importantly your substance abuse is
00:25:32 23 summarized in paragraphs 83 through 88. And I heard you
00:25:36 24 today and the report also mentions and in your statement
00:25:41 25 you mentioned that alcohol may well have been a part of

00:25:46 1 your poor decision making in this case. And I intend to
00:25:49 2 include that as part of my sentencing order to try to
00:25:53 3 address that. Perhaps there was also Prozac; maybe,
00:25:59 4 maybe not. But in any event, there's some combination
00:26:02 5 of drug and alcohol here that I'm going to say clouded
00:26:06 6 your judgment that day and led you on that car ride
00:26:10 7 across state lines, that very unfortunate car ride
00:26:14 8 across state lines.

00:26:16 9 Also I want to acknowledge your military
00:26:18 10 record. You did serve in the U.S. Marines for four
00:26:22 11 years and were honorably discharged, so we do thank you
00:26:25 12 for your service to the country in that regard.

00:26:28 13 Your employment as an over-the-road truck
00:26:31 14 driver is reflected in the report in paragraphs 91
00:26:35 15 through 94. I have taken into account all of that
00:26:40 16 background as well.

00:26:43 17 You are 52 years old and, as you now
00:26:46 18 indicate, you are divorced. That is unfortunate. It is
00:26:50 19 not unusual, Randy, when crimes are committed that
00:26:54 20 family members and others also suffer some consequences
00:26:57 21 from a crime. That often happens. And that's very
00:27:00 22 unfortunate. They are the unintended victims, as I call
00:27:03 23 them. Some describe it as the collateral consequences
00:27:08 24 of crime because it is not just you that suffers. In
00:27:12 25 addition to the victims at the mosque, we have your

00:27:17 1 family members who also suffered some consequences.

00:27:21 2 The statute also requires that my sentence
00:27:27 3 reflect the seriousness of the crime, promote respect
00:27:29 4 for the law, and provide for a just punishment; deter
00:27:31 5 you and others from crimes like this; protect the public
00:27:33 6 from violent crimes like this; as well as provide you
00:27:36 7 with needed training and treatment. In this case we
00:27:39 8 have a bit of an unusual situation because we have a
00:27:42 9 binding Plea Agreement, which I previously reviewed and
00:27:46 10 discussed and accepted. And I made some comments at
00:27:49 11 that time which I believe still hold true, and I would
00:27:52 12 incorporate them into this hearing as well.

00:27:57 13 Let me note the following: We just yesterday
00:28:11 14 had an incidence of violence in Boston at the Boston
00:28:15 15 Marathon. And in that situation there was not just
00:28:19 16 property damage; there was personal injury and death
00:28:22 17 involved. That did not happen in this case,
00:28:26 18 fortunately. However, the potential was certainly there
00:28:29 19 for that to happen. You did not know who was in there,
00:28:32 20 who might have been affected by the setting of the fire,
00:28:35 21 whether there could have been either personal injury or
00:28:39 22 death or both. But what is common in both the Boston
00:28:44 23 Marathon bombing and in this situation is that there was
00:28:48 24 a damage to our American psyche in some way. You have
00:28:55 25 damaged, you heard it today, the psyche, if you will, of

00:28:58 1 the members of the mosque and their families and the
00:29:02 2 trauma that imposed on them, that emotional damage, if
00:29:05 3 you will. What you did was also an assault, as was the
00:29:09 4 Boston Marathon bombing, an assault on what I call the
00:29:14 5 American spirit; on our unique and founding principles
00:29:18 6 of freedom, tolerance, and respect.

00:29:27 7 And I would add that in Toledo the mosque is
00:29:30 8 a bit of a landmark off of I-75. It's easily
00:29:34 9 recognizable, and it is in some ways a testament to the
00:29:37 10 cooperative spirit that you heard referenced earlier of
00:29:40 11 the Toledo community. It is something special here,
00:29:44 12 perhaps more so than other places. It's an example in
00:29:48 13 many ways; this area being a melting pot of people from
00:29:51 14 all different faiths and countries who some of us like
00:29:56 15 to believe set an example of how well we get along with
00:29:59 16 each other and how we share with each other.

00:30:03 17 And so the question comes, Randy: What do
00:30:06 18 you do now? Do you, faced with a long prison term,
00:30:11 19 throw your hands up in despair and quit? Or do you use
00:30:16 20 this time to in some way make up for the error of that
00:30:21 21 day? Do you in some way make yourself a model
00:30:25 22 prisoner, take advantage of the programs that the BOP
00:30:30 23 will offer you? And perhaps, perhaps one of your
00:30:33 24 options in prison will be to study the religion of Islam
00:30:38 25 and to study what it was that you wrongly targeted that

00:30:42 1 day and perhaps in some way make up for this so that
00:30:47 2 your final chapters, whenever they may be, may be more
00:30:51 3 positive than the mark you leave here today.

00:30:54 4 Pursuant to the Sentencing Reform Act of
00:30:57 5 1984, it's the judgment of the Court to confirm and
00:31:00 6 adopt the previously entered binding Plea Agreement. I
00:31:04 7 sentence you on Count 1 to 60 months in prison. On
00:31:07 8 Count 2 I sentence you to 120 months in prison; that is
00:31:12 9 consecutive to Count 1 and Count 3. And on Count 3 I
00:31:17 10 sentence you to 60 months in prison; that is consecutive
00:31:20 11 to Counts 1 and 2. I have met both the mandatory
00:31:24 12 minimums with this sentence as well as the consecutive
00:31:28 13 requirements of the statutes identified at the outset of
00:31:31 14 this hearing.

00:31:32 15 Supervised release, I sentence you on Count
00:31:36 16 1 to three years; on Count 2 to three years; and on
00:31:41 17 Count 5 -- I am sorry, on Count 3 to five years; and
00:31:45 18 those will all be running concurrent to each other. The
00:31:48 19 total amount on supervised release will be five years.

00:31:52 20 Restitution I order in the amount of
00:31:54 21 \$1,446,810.91. That is consistent with the document we
00:32:02 22 identified earlier that will be filed regarding
00:32:05 23 restitution and other conditions of supervised release.
00:32:08 24 I note that \$1,000 of that total is payable to the
00:32:12 25 Islamic Center of Greater Toledo reflecting its

00:32:15 1 deductible; the balance is payable to the Westfield
00:32:18 2 Insurance Company.

00:32:20 3 I'm waiving the fine in this case finding
00:32:23 4 you do not have the ability to pay a fine.

00:32:24 5 I do order the special assessment of \$300
00:32:28 6 due and payable immediately.

00:32:30 7 I will also order for the Bureau of Prisons
00:32:32 8 that you be assessed for mental health counseling and
00:32:36 9 also for drug and alcohol treatment as well.

00:32:40 10 Counsel, have you discussed with your client
00:32:42 11 a preference for location?

00:32:45 12 MR. THEBES: Nearby where his mother lives,
00:32:47 13 which is --

00:32:50 14 THE COURT: Thank you. We will then put a
00:32:52 15 preference. The mother lives where?

00:33:01 16 (Discussion had off the record.)

00:33:01 17 MR. THEBES: Judge, if I may, I misspoke.
00:33:04 18 He would like to be near his son, which is -- his son
00:33:09 19 lives in Fort Wayne. He said Milan would be a good spot
00:33:13 20 for him to be.

00:33:14 21 THE COURT: What we'll do is we'll
00:33:16 22 preference a location as close as possible to Fort
00:33:19 23 Wayne, Indiana; and the Bureau of Prisons will make that
00:33:21 24 decision. It is not mine. I can only recommend. But I
00:33:25 25 am happy to indicate that recommendation in my order.

00:33:29 1 Do counsel for either side know of any
00:33:31 2 reason not previously made why the sentence I have just
00:33:34 3 outlined should not be imposed?

00:33:35 4 MS. HOWE-GEBERS: No, Your Honor.

00:33:36 5 MR. THEBES: No, Your Honor.

00:33:37 6 THE COURT: Any arguments that I failed to
00:33:39 7 address from either side?

00:33:44 8 MR. THEBES: No, Your Honor.

00:33:45 9 MS. HOWE-GEBERS: No, Your Honor.

00:33:51 10 THE COURT: We're adjourned.

11 (Concluded at 3:41 p.m.)

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13

14 **C E R T I F I C A T E**

15

16 I certify that the foregoing is a correct transcript
17 from the record of proceedings in the above-entitled
18 matter.

19

20 /s/ Tracy L. McGurk_____

_____8/23/16_____

21 Tracy L. McGurk, RMR, CRR

Date

22

23

24

25